

PROCEDURE

PROTOCOL FOR TREATING ALLEGATIONS OF POSSIBLE ABUSE OF A MINOR

1. Origin

This document explain in writing the process diagram developed in 2003 to describe the steps in treating an allegation of sexual abuse of a minor by a church minister. As such, it follows the outline described in the document "From Pain to Hope" (1992) of the Canadian Conference of Catholic Bishops.

2. Scope

The procedure covers how allegations of possible abuse of a minor are to be treated in the Archdiocese of Montréal when such allegations are made against a consecrated person, a member of the clergy, or a lay person (mandated or not) who is part of the personnel of the diocese, including its parishes, missions, and other organizations.

In principle, religious institutions and other ecclesial institutions should have their own procedures for responding to allegations of possible abuse of a minor committed by their members, employees and volunteers. That being said, this procedure may be used to respond to allegations of abuse of a minor made against members of religious communities who are not mandated by the Archbishop, and it may also be used to respond to allegations of abuse of a minor made against employees and volunteers of ecclesial institutions which come under the authority of the Archbishop. In such cases, this procedure is applied in concert with the superiors of those groups.

3. Officers

The Archbishop names a Delegate for the treating of allegations of possible abuse of a minor that are covered by this procedure. In the absence of a specific appointment to this role, it is fulfilled by the Director of the Office for Pastoral Personnel.

The Archbishop may name a Substitute for the treating of allegations of abuse of a minor. This person fulfills the functions of the Delegate should the delegate be temporarily unable to fulfill his duties or if the allegations concern him.

The Delegate and the Substitute should both be Commissioners of Oaths.

4. Multidisciplinary Advisory Committee

The Multidisciplinary Advisory Committee is composed of the following persons:

- (a) The Delegate (as chairman)
- (b) The Substitute
- (c) The Vicar General(s)
- (d) The Chancellor
- (e) The Director of communications
- (f) An expert in law enforcement (e.g. a police officer)
- (g) An expert in civil law (e.g. a lawyer)
- (h) A medical practitioner (e.g. a doctor)

The members of the Advisory Committee are named by the Archbishop.

The Advisory Committee meets as necessary to advise the Delegate on the treating of allegations of abuse, both in general and in regards to specific cases.

The Advisory Committee can meet by telephone, particularly in urgent situations.

5. The allegation

Any person who is informed of an allegation of possible abuse of a minor that falls under the scope of this procedure is bound in their Christian duty to report it to the Delegate. To be clear, such an allegation may come from:

- (a) a victim
- (b) a family member or friend of a victim
- (c) a religious minister, an employee, or a volunteer in an ecclesial institution
- (d) the media
- (e) the abuser himself
- (f) any other party with knowledge of the situation

If an allegation is received by a diocesan official who is not the Delegate, that person is bound to report it to the Delegate. No diocesan official is to undertake elements of this procedure on their own without the Delegate being informed. No diocesan official is to fail to report an allegation of abuse of a minor to the Delegate, even if in his or her judgment the allegation is without foundation.

6. Initial gathering of information

The Delegate gathers and preserves all information related to the allegation of possible abuse of a minor. This includes documentary evidence (letters, emails, newspaper articles, etc.) as well as oral testimony. Oral testimony should be documented as it is received or immediately afterwards, and if possible it should be recorded. All information should indicate the date it was received, and the names and contact information of the persons involved in the transmission of the information.

Once the allegation of possible abuse of a minor has been itself documented (even if additional information is still being gathered), the Delegate does the following:

- (a) he informs the Archbishop of the allegation;
- (b) he convokes a meeting of the Advisory Committee (to be held within 1 month of the receipt of the allegation, or earlier as the urgency of the situation might suggest);
- (c) he informs the Director of Youth Protection as the law requires.

The Delegate will also usually meet with the accused to inform him or her of the allegation and to get his or her point of view; this step may be put off until later, however, if it could hamper a possible investigation (particularly if there is a concern regarding the intimidation of witnesses).

7. Initial verification

The Delegate is responsible to verify the details of the information gathered at the outset of the process. There are two potential outcomes of this verification:

- (a) It is not possible for the allegation to be true (e.g. the accused was dead or not in the country at the time of the alleged incident).
- (b) It is possible for the allegation to be true.

The Delegate should discuss his findings and conclusions with the Advisory Committee before proceeding further.

It is possible for the initial verification to arrive at ambiguous results, where there is no formal allegation of abuse but where circumstances are suspicious ("red flags", "smoke but not yet fire"). This should also be discussed with the Advisory Committee to see how to best proceed.

8. In case of an unfounded allegation

In the event an allegation of abuse of a minor is demonstrably unfounded, the Delegate informs the Archbishop of this fact. He also informs the accused, and the accused's superior (such as in the case of a member of a religious community).

The dossier can now be considered as closed with regards to the allegation of abuse. However, additional steps may be necessary to offer support to the accused, to help restore his reputation, to see what ministry might be possible, etc. The responsibility for leading this support falls to the Office for Pastoral Personnel.

9. In case of a possibly true allegation

In the event an allegation of abuse of a minor is possibly true, a number of steps must be taken (not necessarily in this order, depending on circumstances):

- (a) Support will be offered to the complainant: pastoral, psychological, medical, family support, etc. However, it will be made clear to the complainant that the Archdiocese cannot agree to a request for silence in such a matter.
- (b) The complainant will be encouraged to go to the police, with the possibility of an accompaniment in that process.
- (c) The Director of Youth Protection will be informed by the diocese as the law requires.
- (d) A formal canonical preliminary inquiry will be opened in accordance with canon 1717, and an investigator will be appointed.
- (e) The accused will be suspended from all ministry, employment and volunteer functions. In the case of a cleric, the faculty sheet will be revoked, as well as the possibility to wear clerical attire.
- (f) In the case of a priest, depending on circumstances, the accused will receive a subsistence level of remuneration and will be designated a place to live.
- (g) In the case of an employee, the accused will be suspended with pay, with partial pay or without pay, depending on circumstances.
- (h) The accused will be assigned a spiritual counsellor, and may be directed to participate in a psychological evaluation (in part to determine what psychological counselling might be best appropriate).
- (i) A canonical advocate will be appointed for the accused.
- (j) The accused will be advised to retain the services of legal counsel. This advocates will be other than those advising the Archdiocese.
- (k) The accused's superior (as the case may be) will be informed of these steps.
- (l) The diocesan legal counsel will be appraised of the situation.
- (m) The appropriate insurance company will be appraised of the situation.

- (n) A communications dossier will be prepared, for the purpose of keeping the facts clear and to allow for appropriate information to be made public when necessary (keeping in mind the *Act respecting the protection of personal information in the private sector*, P-39.1).
- (o) Some key pastoral leaders will be informed, such as episcopal vicars or pastors of parishes particularly affected by the situation.

These measures will be discerned with the aid of the Advisory Committee. They will be reviewed by the Advisory Committee as the situation unfolds.

It is important to note that at no time should any evidence be removed or destroyed.

10. In case of an ambiguous situation

In the event that the initial verification does not reveal an actual allegation of abuse of a minor but which does raise "red flags", the diocesan authority will decide what steps from the previous section should be engaged. The Advisory Committee accompanies the diocese in this decision. The situation may be revised, of course, as the situation is clarified. As mentioned in 9 (c), the Director of Youth Protection will be informed by the diocese as the law requires.

11. The police investigation

Not every allegation of abuse of a minor will lead to a police investigation (e.g. in the case that the accused has passed away). However, in the event that a police investigation is underway or can be expected, it is the policy of the diocese to cooperate fully with the police (and, eventually, the Crown).

As mentioned in section 9(c), the diocese will report any situations where a child's security or development is in danger (or possibly in danger) to the Director of Youth Protection.

As mentioned in section 9(b), the diocese will encourage victims to make a report to the police, and to possibly accompany them in this process as the victim might desire.

In the event a diocesan investigation discovers evidence of a crime, the investigation is normally to cease if there is any risk of tainting a possible police investigation, even if only inadvertently.

While Canadian law does not normally require third parties to undertake to report evidence of a crime, the diocese reserves the right to approach the police on its own initiative, particularly if public safety is at risk, or if a delay in investigation might hamper the pursuit of truth.

Any suspension of ministry or of employment will continue as long as a case is being investigated by police or is before the court.

12. The preliminary canonical investigation

The preliminary canonical investigation begins with the decree opening the investigation. This decree typically indicates that certain evidence already received is to be included in the acts of the investigation.

The investigator creates a consolidated file composed of information from any other diocesan files regarding the accused (Chancery, Office for Pastoral Personnel, episcopal vicar files, special archive, etc.).

The investigator receives the testimony of the complainant, any other witnesses, and the accused. This testimony, if received orally, should be recorded and transcribed. It should be received under oath (except for that of the accused, who cannot be administered an oath under the provisions of canon law).

Based on the documents and testimonies received, the investigator may make additional inquiries and seek out additional documents and testimonies.

The investigator may provide interim reports to diocesan authorities as requested and as circumstances require.

Once the investigator had concluded his investigation, he will write his final report. This report should cover the facts, circumstances and imputability concerning the crimes and delicts alleged or uncovered during the course of the investigation. This report is deposited with the Archbishop, who may close the investigation or who may request that additional inquiries be made.

The preliminary canonical investigation concludes with a decree to that effect. If a grave delict has been revealed, the report of the preliminary canonical investigation is to be forwarded to the Congregation for the Doctrine of the Faith as per article 16 of the Substantive Norms of the motu proprio *Sacramentorum Sanctitatis Tutela*. In other cases, the Archbishop must decide of a course of action as outlined in canon 1718.

13. Final conclusions of the case

It is impossible to determine in advance how to finally respond to an allegation of possible abuse of a minor, as so much depends on the circumstances of the case. However, the following orientations should govern any follow-up:

- (a) In the event the crime of abuse is proven, the diocese will pursue the permanent removal from ministry of an offending cleric, and if possible his dismissal from the clerical state. In the case of an employee, that person's contract of employment will be terminated. In the case of a volunteer, that person will be dismissed. In all cases will the offender be permanently ineligible to be involved in church functions, even in a voluntary capacity.

- (b) In the event the crime of abuse is demonstrated to be false, the situation will be treated in a manner similar to that of an "unfounded allegation" (see section 8 above).
- (c) In the event the crime of abuse is unproven but still remains ambiguous, the diocese will treat the matter according to circumstances. In no case should a person be assigned to situations where the ambiguity may persist, such that certain restrictions on ministerial or employment activities may be imposed.

14. Version history

- 2003-03-05 Process diagram for the procedure.
- 2019-02-28 (1.0) Formal textual version.